



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5114

Introduced 1/29/2010, by Rep. Thomas Holbrook

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.1

from Ch. 38, par. 12-7.1

Amends the Criminal Code of 1961. Includes in the definition of hate crime, specific crimes directed against an individual or group of individuals because of their actual or perceived homelessness, status as an active duty member of the Armed Forces of the United States, any reserve component of the Armed Forces of the United States, the Illinois Army National Guard, or the Illinois Air National Guard, or status as a veteran.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 12-7.1 as follows:

6 (720 ILCS 5/12-7.1) (from Ch. 38, par. 12-7.1)

7 Sec. 12-7.1. Hate crime.

8 (a) A person commits hate crime when, by reason of the  
9 actual or perceived homelessness, status as an active duty  
10 member of the Armed Forces of the United States, any reserve  
11 component of the Armed Forces of the United States, the  
12 Illinois Army National Guard, or the Illinois Air National  
13 Guard, or status as a veteran, race, color, creed, religion,  
14 ancestry, gender, sexual orientation, physical or mental  
15 disability, or national origin of another individual or group  
16 of individuals, regardless of the existence of any other  
17 motivating factor or factors, he commits assault, battery,  
18 aggravated assault, misdemeanor theft, criminal trespass to  
19 residence, misdemeanor criminal damage to property, criminal  
20 trespass to vehicle, criminal trespass to real property, mob  
21 action or disorderly conduct as these crimes are defined in  
22 Sections 12-1, 12-2, 12-3, 16-1, 19-4, 21-1, 21-2, 21-3, 25-1,  
23 and 26-1 of this Code, respectively, or harassment by telephone

1 as defined in Section 1-1 of the Harassing and Obscene  
2 Communications Act, or harassment through electronic  
3 communications as defined in clauses (a)(2) and (a)(4) of  
4 Section 1-2 of the Harassing and Obscene Communications Act.

5 (b) Except as provided in subsection (b-5), hate crime is a  
6 Class 4 felony for a first offense and a Class 2 felony for a  
7 second or subsequent offense.

8 (b-5) Hate crime is a Class 3 felony for a first offense  
9 and a Class 2 felony for a second or subsequent offense if  
10 committed:

11 (1) in a church, synagogue, mosque, or other building,  
12 structure, or place used for religious worship or other  
13 religious purpose;

14 (2) in a cemetery, mortuary, or other facility used for  
15 the purpose of burial or memorializing the dead;

16 (3) in a school or other educational facility,  
17 including an administrative facility or public or private  
18 dormitory facility of or associated with the school or  
19 other educational facility;

20 (4) in a public park or an ethnic or religious  
21 community center;

22 (5) on the real property comprising any location  
23 specified in clauses (1) through (4) of this subsection  
24 (b-5); or

25 (6) on a public way within 1,000 feet of the real  
26 property comprising any location specified in clauses (1)

1 through (4) of this subsection (b-5).

2 (b-10) Upon imposition of any sentence, the trial court  
3 shall also either order restitution paid to the victim or  
4 impose a fine up to \$1,000. In addition, any order of probation  
5 or conditional discharge entered following a conviction or an  
6 adjudication of delinquency shall include a condition that the  
7 offender perform public or community service of no less than  
8 200 hours if that service is established in the county where  
9 the offender was convicted of hate crime. The court may also  
10 impose any other condition of probation or conditional  
11 discharge under this Section.

12 (c) Independent of any criminal prosecution or the result  
13 thereof, any person suffering injury to his person or damage to  
14 his property as a result of hate crime may bring a civil action  
15 for damages, injunction or other appropriate relief. The court  
16 may award actual damages, including damages for emotional  
17 distress, or punitive damages. A judgment may include  
18 attorney's fees and costs. The parents or legal guardians,  
19 other than guardians appointed pursuant to the Juvenile Court  
20 Act or the Juvenile Court Act of 1987, of an unemancipated  
21 minor shall be liable for the amount of any judgment for actual  
22 damages rendered against such minor under this subsection (c)  
23 in any amount not exceeding the amount provided under Section 5  
24 of the Parental Responsibility Law.

25 (d) For the purposes of this Section:

26 "Active duty" means active duty pursuant to an

1 executive order of the President of the United States, an  
2 act of the Congress of the United States, or an order of  
3 the Governor.

4 "Homelessness" means lacking a fixed, regular, and  
5 adequate nighttime residence or having a primary nighttime  
6 residence that is:

7 (i) a publicly or privately operated shelter  
8 designed to provide temporary living accommodations  
9 (including welfare hotels, congregate shelters, and  
10 transitional housing for the mentally ill);

11 (ii) an institution that provides a temporary  
12 residence for individuals intended to be  
13 institutionalized; or

14 (iii) a public or private place not designed for,  
15 or ordinarily used as, a regular sleeping  
16 accommodation.

17 "Sexual orientation" means heterosexuality,  
18 homosexuality, or bisexuality.

19 "Veteran" means a person who has served in the Armed  
20 Forces of the United States, any reserve component of the  
21 Armed Forces of the United States, the Illinois Army  
22 National Guard, or the Illinois Air National Guard.

23 (Source: P.A. 93-463, eff. 8-8-03; 93-765, eff. 7-19-04; 94-80,  
24 eff. 6-27-05.)